

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

IN RE:)	
)	
BLUEPOINT MEDICAL ASSOCIATES, LLC,)	CASE NO. 19-13121-KHK
)	CHAPTER 11
Debtor.)	

OBJECTION TO DEBTOR’S PLAN OF REORGANIZATION

Philips Medical Capital, LLC (“PMC”), by and through the undersigned counsel, hereby objects to the Debtor’s Plan of Reorganization (Dk 90)(“the Plan”) filed herein on March 17, 2020, and states as follows:

1. PMC is a secured creditor which holds a blanket lien against substantially all of the Debtor’s assets.
2. PMC filed its Proof of Claim in the amount of \$218,615.88 (Claim No. 9) on November 4, 2019. PMC’s Proof of Claim details the collateral which is subject to its liens.
3. The Debtor has made certain adequate protection payments to PMC since the case was filed, although not in a timely manner and not as required by the Court’s cash collateral orders.
4. PMC is entitled to recover interest and attorney’s fees to the extent that the value of its collateral exceeds the amount of its debt. 11 U.S.C. §506(b). PMC asserts that it is oversecured and is entitled to recover interest and attorney’s fees as part of its claim. The Plan does not provide for the recovery of either.

Robert M. Marino, Esq. VSB #26076
Redmon Peyton & Braswell, LLP
510 King Street, Suite 301
Alexandria, VA 22314
703-684-2000
703-684-5109 (fax)
rmmarino@rpb-law.com
Local Counsel for Phillips Medical Capital, LLC

Byron L. Saintsing, Esq. N.C. State Bar No. 16035
Smith Debnam Narron Drake Saintsing & Myers, LLP
P.O. Box 176010
Raleigh, NC 27619-6010
Telephone: 919-250-2118
bsaintsing@smithdebnamlaw.com
Lead Counsel for Phillips Medical Capital, LLC

5. PMC is listed in Class 5 of the Plan. The Plan provides that Class 5 is unimpaired. Class 5 is not unimpaired and PMC objects to the Debtor's contention that PMC is unimpaired. Given that PMC is impaired, it is entitled to cast a ballot for or against the Plan. The Debtor has not provided PMC with a ballot.

6. PMC objects to the Plan on the basis that it is not feasible. PMC has previously filed a Notice of Noncompliance with this Court (Dk 83). The Debtor has consistently failed to abide by the cash collateral orders entered by the Court. PMC has not received the \$5,000.00 payment it was due by April 5, 2020 pursuant to this Court's *Fourth Order Regarding Motion to Use Cash Collateral* entered on March 23, 2020 (Dk 93).

7. PMC objects to the Plan on the basis that it violates the absolute priority rule.

WHEREFORE, PMC respectfully requests that the Court deny confirmation of the Debtor's Plan of Reorganization.

Date: April 7, 2020

PHILIPS MEDICAL CAPITAL, LLC
By Counsel

/s/ Robert M. Marino
Robert M Marino, Esq. VBN 26076
Redmon Peyton & Braswell, LLP
510 King Street, Suite 301
Alexandria, VA 22314
Telephone: 703-879-2676
rmmarino@rpb-law.com
Local Counsel for Phillips Medical Capital, LLC

/s/ Byron L. Saintsing
Byron L. Saintsing – *admitted pro hac vice*
SMITH DEBNAM NARRON DRAKE SAINTSING & MYERS, LLP
P.O. Box 176010
Raleigh, NC 27619-6010
Telephone: (919) 250-2118
Facsimile: (919) 250-2211
Email: bsaintsing@smithdebnamlaw.com
Counsel for Philips Medical Capital, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2020, I caused a true copy of the foregoing *Notice of Noncompliance* to be served electronically through the electronic case filing system to all persons entering their appearance and requesting notice in this case, and by email to the following persons:

John T. Donelan
donelanlaw@gmail.com

Jack I. Frankel, Esq.
jack.i.frankel@usdoj.gov

Joseph A. Guziniski, Esq.
joseph.a.guzinski@usdoj.gov

Joel L. Dahnke, Esq.
joel@dahnkelaw.com

/s/Robert M. Marino
Robert M. Marino